

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA**

**CYNTHIA ELLISON,**

**Plaintiff**

**V.**

**Civil Action No.**

2:05CV902-B

**AUBURN UNIVERSITY  
MONTGOMERY,**

**MONTGOMERY,**

## Defendant

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**MOTION TO AMEND ANSWER**

Pursuant to Fed. R. Civ. P. 15(a), Defendant Auburn University

Montgomery moves the Court for leave to amend its answer to assert the defense of sovereign immunity as to Plaintiff's claims under 42 U.S.C. § 1981 by virtue of the eleventh amendment to the Constitution, as follows:

Plaintiff's claims under 42 U.S.C. § 1981 are barred by sovereign immunity pursuant to the eleventh amendment to the Constitution.

In support of this motion, Defendant states that it files this motion within the time allowed by the Court's Scheduling Order; that no prejudice will accrue to Plaintiff since constitutional immunity can be raised at any time; and that

justice requires allowance of amendment since the Constitution controls this aspect of Plaintiff's case.

**AUBURN UNIVERSITY MONTGOMERY**

s/Burton F. Dodd

Burton F. Dodd

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MIDDLE DISTRICT OF ALABAMA**

## NORTHERN DIVISION

**CYNTHIA ELLISON,**

**Plaintiff**

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**AUBURN UNIVERSITY  
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## CERTIFICATE OF SERVICE

I certify that, on February 28, 2006, I electronically filed Defendant's Motion to Amend Answer and its accompanying Memorandum of Law in Support of Motion to Amend Answer with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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**AUBURN UNIVERSITY MONTGOMERY**

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